

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

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|---------------------------|---|------------------|
| UNITED STATES OF AMERICA, | : | |
| | : | |
| Petitioner, | : | |
| | : | |
| v. | : | CIVIL ACTION NO. |
| | : | 1:06-CV-0758-JOF |
| STUART B. HODGES, | : | |
| | : | |
| Respondent. | : | |

OPINION AND ORDER

This matter is before the court on Magistrate Judge Hagy's Report and Recommendation to grant the Government's petition to enforce IRS summons, deny the motion to dismiss, and that Respondent pay the Government's costs and attorneys' fees in enforcing the summons.

On March 14, 2006, the United States of America filed a petition before this court seeking to enforce an IRS summons served on Respondent on October 3, 2005. Specifically, the Government is conducting an investigation into the tax liability of Respondent for the years 1998, 1999, 2000, and 2001 and filed this petition seeking various documentation within Respondent's possession. Magistrate Judge Hagy issued a show cause order on May 2, 2006 ordering Respondent to show cause as to why he should not be compelled to comply with the IRS summons. On June 6, Respondent filed a motion to dismiss the IRS summons.

On June 13, Magistrate Judge Hagy held a show cause hearing to determine whether Respondent showed cause for refusing to comply with an IRS summons. On June 14, Magistrate Judge Hagy issued a Report and Recommendation advising this court to grant the Government's petition to enforce the IRS summons and to deny Respondent's motion to dismiss. Magistrate Judge Hagy further recommended that Respondent pay the Government's costs and attorneys' fees in enforcing the summons. Respondent filed objections to the Report and Recommendation.

Throughout this proceeding Respondent has raised a myriad of arguments against both the Government's petition seeking to enforce the IRS summons and Magistrate Judge Hagy's Report and Recommendation advising this court to grant this petition. To name only a few of these arguments, Respondent has challenged the ability of the IRS to collect federal income taxes, arguing that any such tax is voluntary. He has challenged the IRS and its agents' authority and ability to issue such a summons. Respondent has challenged this court jurisdiction to enforce an IRS summons. Respondent has also raised several arguments under the Federal Rules of Evidence with regard to the show cause hearing before Magistrate Judge Hagy.

The court finds Respondent has not shown cause as to why he should not be required to comply with the IRS summons. Further, the court finds Respondent's arguments and objections to be frivolous and without merit. The court therefore ADOPTS Magistrate Judge Hagy's Report and Recommendation as the order of this court. The court GRANTS the

Government's petition to enforce the IRS summons [1]. The court DENIES Respondent's motion to dismiss [5]. Finally, the court ORDERS that Respondent pay the Government's costs and attorneys' fees in enforcing the summons.

The Government is DIRECTED to file a motion for its costs and attorney's fees within ten (10) days of this order.

IT IS SO ORDERED this 16th day of January 2007.

s/ J. Owen Forrester

J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE